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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,624	09/18/2006	Michael Van Dievoet	P70901US0	9143
136 7590 04/24/2009 JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			EXAMINER DONADO, FRANK E	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 04/24/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/552,624	VAN DIEVOET ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	FRANK DONADO	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

1. The amendment filed on 1/16/09 has been entered. The written description of the specification, the abstract, the drawings and claims 1 and 3-10 have been amended. Claim 2 has been cancelled. No claims have been added. Claims 1 and 3-10 are currently pending in this application, with claim 1 being independent.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 3-5, and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amin, et al (**US Patent 7,266,371**), in view of Mashiko (**US PG Publication 2001/0029190**). From now on, Amin, et al, will be referred to as Amin.

Regarding claim 1, Amin teaches an assembly comprising a mobile telephone powered by a self-contained power source, an auxiliary memory and a charger provided for charging said power source, said telephone being provided with a memory arranged to store therein data of an operator and data introduced by an owner of the telephone, said memory and auxiliary memory each being equipped with a read and write member to allow a reading and a writing of data in the respective memory, said initialization means being arranged to activate said read member of said memory and said write member of said auxiliary memory under the control of said initialization signal in order to read said data of said memory and to write in said auxiliary memory at least these data of said memory which are not yet recorded in the auxiliary memory (**A subscriber identity module (SIM) is contained within a cell phone that has a battery, memory and charger, where an initialization, registration or modification process may take place that involves a database. For example, the SIM reads information from an IP-Based Activation System (IBAS) and then writes/stores this information into its**

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**memory during activation by a user, and the database reads identification information from a SIM and then writes/stores this information into its memory during a feature change by the user. IBAS may identify the SIM during an initialization of data, Column 6, lines 62-67, Column 7, lines 1-5 and 61-64, Column 8, lines 1-5, 22-24 and 38-41 and Column 9, lines 20-23).** Amin does not teach said auxiliary memory being associated with said charger, said charger being provided with initialization means connected to said read and write member, said initialization means being arranged to detect a charging of said power source and produce an initialization signal after detection of such a charging. Mashiko teaches auxiliary memory being associated with said charger, said charger being provided with initialization means connected to said read and write member **(A secondary storage portion is located inside the charger, where the storage portion of the charger works with a microcontroller, also inside the charger, and stores information associated with an information management process that evaluates both identification and password information and reads/writes information to storage inside the portable phone and the secondary storage inside the charger, Paragraph 19, lines 27-40 and Paragraph 53).** Mashiko also teaches said initialization means being arranged to detect a charging of said power source and produce an initialization signal after detection of such a charging **(A control portion for the battery charger produces a charging signal for charging the battery and subsequently allows for the information management process to take place, Paragraph 19, lines 15-27 and Paragraph 23, lines 1-10).** It would have been obvious to one of ordinary skill in the art

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at the time of the invention to modify the invention of Amin to associate the memory with the charger, an initialization means and a power detection for the benefit of reducing costs and consuming power.

Regarding claim 3, Amin, in view of Mashiko, teaches the assembly according to claim 1. Amin further teaches an identification code is stored in the memories and said initialization means comprise a verification element arranged to compare, under the control of said initialization signal, codes stored in said memory and the auxiliary memory in order to produce a neutralization signal in the event of a non-match of said identification codes compared with each other, said activation of said read and write member being neutralized under the control of said neutralization signal **(An initialization takes place for establishing communication with the network, where a check is made on data stored in both the SIM memory and the database, which includes identification data called international mobile subscriber identity (IMSI). In case these 2 do not match, the verification process is not successful and no reading/writing of data may occur, for example, in the case of a feature change requested by a non-verified user, Column 3, lines 9-13, Column 7, lines 61-67, Column 8, lines 1-5, Column 9, lines 27-30, Column 16, lines 47-49 and Column 17, lines 7-11) .**

Regarding claim 4, Amin, in view of Mashiko, teaches the assembly according to claim 1. Amin further teaches said initialization means are arranged so as to activate

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said read member of said auxiliary memory under the control of said initialization signal in order to read said data of these memories, said initialization means comprising a comparator arranged so as to receive said data read in said respective memories, after activation of said read member, and to compare with each other said data stored in the first and second memories and to mark based on the comparison of the data of the memory which are not stored in the auxiliary and to store in the auxiliary memory only the data marked **(During a feature change, the user's data is 1<sup>st</sup> verified by comparing database information with SIM memory information, as described in claim 3 above. If the user is verified successfully, the user selects what features they want and corresponding data is loaded into the database accordingly, Column 7, lines 61-67, Column 8, lines 1-5, Column 16, lines 47-49 and Column 17, lines 7-11).**

Regarding claim 5, Amin, in view of Mashiko, teaches the assembly according to claim 1. Amin further teaches said initialization means are arranged to delete the content of the auxiliary memory under control of said initialization signal **(Data may be overwritten in the SIM during roaming, Column 9, lines 50-53 and 59-61).**

Regarding claim 7, Amin, in view of Mashiko, teaches the assembly according to claim 1. Amin further teaches said initialization means are provided with a transmitter arranged to transmit a message indicating a writing in said auxiliary memory when data are written therein **(Column 9, lines 17-23 and Column 11, lines 7-9).**

Regarding claim 8, Amin, in view of Mashiko, teaches the assembly according to claim 1. Amin further teaches said initialization means comprise an activation key which can be activated by a user, said activation key being arranged to produce an activation signal after having been activated, said write member of said memory and said read member of said auxiliary memory being able to be activated under the control of said activation signal in order to allow writing in the memory of the data read in the auxiliary memory **(The user activates their services, and this is acknowledged through the releasing of an IP address, Column 14, lines 28-31 and step 688 in Figure 6C).**

Regarding claim 9, Amin, in view of Mashiko, teaches the assembly according to claim 1. Amin further teaches said initialization means comprise a connection pin connected to a conductive wire that is connected to said auxiliary memory, said pin being compatible with that of said telephone giving access to said memory **(A security key is featured that gives the SIM access to the network, which includes the database, Column 9, lines 43-50).**

Regarding claim 10, Amin, in view of Mashiko, teaches an initialization means that is a component of the assembly according to claim 1. Mashiko further teaches said initialization means being configured to detect a charging of said power source and produce an initialization signal after detection of said charging **(A control portion for the battery charger produces a charging signal for charging the battery and**



**subsequently allows for the information management process to take place, Paragraph 19, lines 15-27 and Paragraph 23, lines 1-10).**

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amin, in view of Mashiko, and further in view of Hicks (**US Patent No. 6,493,552**).

Regarding claim 6, Amin, in view of Mashiko, teaches the assembly according to claim 1. Amin, in view of Mashiko, fails to teach said initialization means are provided with a counter having an input for receiving said initialization signal, said counter being arranged to increment a counting amount after reception of said initialization signal and to produce a counting signal when the counting amount has reached a predetermined threshold and a stop signal when counting amount has not reached said threshold, said initialization means being arranged to neutralize said activation of said read and write member under control of said stop signal and to initialize said counting amount under control of said counting signal. Hicks teaches said initialization means are provided with a counter having an input for receiving said initialization signal, said counter being arranged to increment a counting amount after reception of said initialization signal and to produce a counting signal when the counting amount has reached a predetermined threshold and a stop signal when counting amount has not reached said threshold, said initialization means being arranged to neutralize said activation of said read and write member under control of said stop signal and to initialize said counting amount under control of said counting signal (**A mobile subscriber attempting register attempts to**

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**register their mobile phone with the network a specific predetermined number of times. If the predetermined number of times is reached, a new channel is found, and if the number is not reached by the counter, the registration attempts continue. The counter is incremented before the determination is made on both occasions, and registration leads to reading and writing of identification and other data in memory of the Home Location Register, Column 1, lines 31-43, Column 2, lines 26-28 and 46-47, Column 5, lines 45-56 and Figure 3)** It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Amin to include a counter for the benefit of added efficiency.

### ***Response to Arguments***

7. Applicant's arguments filed 1/16/09 regarding claims 1 and 6 have been fully considered but they are not persuasive for the following reasons:

Regarding, Applicant's argument on pages 15 and 16 of the remarks, Amin's initialization not taking place at the charger and there being no teaching in Amin and Mashiko that would have led one to select the references and combine them in a way that would produce the invention defined by any of Applicants' pending claims, the mobile phone of Amin includes the initialization process, as indicated in Column 8, lines 57-60, and Mashiko's initialization at the charger is used in conjunction with this to show these steps can be combined within one mobile device to include the entire process of initialization at a charger. For further clarification, Mashiko's phone includes identification data unique to said mobile phone being stored during a phone registration portion; see Paragraph 50, lines 6-9. Since said data that is associated with said phone

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initialization process is distributable from said phone to said charger, this indicates an initialization of a mobile phone will take place at a charger when combining the limitations of said mobile phones of Amin and Mashiko.

Regarding Mashiko teaching away from a solution as proposed by the present invention by imposing two microcontrollers and having the microcontroller in a battery charger operate as a slave, the microcontrollers do not impede the mobile phone of Mashiko from initializing said mobile phone at said charger, as described by the limitation of claim 1.

Regarding claim 6, the initialization means of Hicks not being linked to the charging of the power source, the limitations included in the inventions of Amin and Mashiko are used to link the initialization to the power source (see above rejection).

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK DONADO whose telephone number is (571) 270-5361. The examiner can normally be reached Monday-Friday, 9:30 am-6 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rafael Perez-Gutierrez can be reached on 571-272-7915. The fax phone number for the organization where this application or proceeding is assigned is 571-270-6361.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-273-8300.

/Frank Donado/

/Rafael Pérez-Gutiérrez/

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Supervisory Patent Examiner, Art Unit 2617